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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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GREENBERG TRAUIG, LLP 77 WEST WACKER DRIVE SUITE 2500 CHICAGO, IL 60601-1732			GRIER, LAURA A	
			ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/945,018

Applicant(s)

JANIK, CRAIG M.

Examiner

Laura A. Grier

Art Unit

2644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2,5,6,11-14 and 61-67 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2,5,6,11-14 and 61-67 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 2, 4-6, 11, 13-14, and 61-67** are rejected under 35 U.S.C. 103(a) as being unpatentable over Janky and Sass in view of Malladi et al., U. S. Patent 5815206.

Regarding **claim 61**, Janky discloses an enhanced delivery of audio data for portable playback (figures 1-4). Janky's disclosure comprises an internet work server (11) for providing digital audio data via a LAN to a PC(computer) or SPU, in which, the PC and SPU constitutes as a client converter device, and, wherein the PC (figure 1, reference numbers 54, 61, 63, 59, and 57) and/or the SPU (figure 2, lines 89, 91-93) includes various memories - (col. 2, lines 1-32 and col. 3, lines 28-67, col. 5, lines 3-5, and 35-60, col. 6, lines 12-54), which reads on receiving a portion of digital media and reads on a volatile memory wherein the SPU constitute as a conventional playback system as well. However, Janky fails to specifically disclose converting and receiving the portion of the digital media file, therein as claimed.

Regarding the simultaneously converting and receiving of the digital media file, in a similar field of endeavor, Sass discloses distribution and playing audio information. Sass' disclosure comprises a memory coupled to a CPU of a media player, where store data in the memory is processed to prevent interruptions of the audio output (col. 5, lines 49-64). And,

Malladi et al (herein, Malladi) discloses the use of firmware, which indicates control flow of the data from one storage area to another (col. 4, lines 13-24 and 44-51).

Thus, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Janky and Sass by providing a memory that buffers the audio data so that interruptions of the audio playback is prevented.

Regarding **claims 2 and 4**, Janky and Sass and Malladi (herein, Janky combination) disclose everything claimed as applied above (see claim 61). Janky combination (Janky) further indicates in figures 6 and 7 the transmission of the transfer data which indicates converting the digital data into and analog electrical data, and manipulation for audio playback, which may be provided on the PC and/or SPU, wherein both includes displays and user input and output means or data command inputs (figure 1-references 65 and 67 and figure 2, references 95 and 97).

Regarding **claim 5**, Janky combination disclose everything claimed as applied above (see claim 2). Janky combination (Janky) further discloses the SPU, which is a portable hand-held storage and playback unit (col. 6, lines 12-15), which indicates a portable electronic device.

Regarding **claim 6**, Janky combination discloses everything claimed as applied above (see claim 3). Janky combination (Janky) further discloses the SPU, which is a portable hand-held storage and playback unit (col. 6, lines 12-15), which indicates a portable electronic device and/or a portable digital assistant (PDA).

Regarding **claim 11**, Janky combination discloses everything claimed as applied above (see claim 61). Janky combination (Janky) discloses wireless local area network Access modem and various applicable and well known transmission protocols (col. 4, lines 24-51) which obviously indicates wireless transceiver via a wireless protocol.

Regarding **claim 13**, Janky combination discloses everything claimed as applied above (see claim 11). Janky combination (Janky) disclose the wireless local area network used for transferring data between a server and PC and/or a SPU, which obviously supports a portable electronic devices with a wireless local area network adapter.

Regarding **claim 14**, Janky combination discloses everything claimed as applied above (see claim 13). Janky combination (Janky) further discloses the SPU, which is a portable handheld storage and playback unit (col. 6, lines 12-15), which indicates a portable electronic device and/or a a portable digital assistant (PDA).

Regarding **claim 67**, Janky discloses an enhanced delivery of audio data for portable playback (figures 1-4). Janky's disclosure comprises an internet work server (11) for providing digital audio data via a LAN to a PC (computer) or SPU, in which, the PC and/or SPU may constitute as a client converter device, and, wherein the PC (figure 1, reference numbers 54, 61, 63, 59, and 57) and/or the SPU (figure 2, lines 89, 91-93) includes various memories - (col. 2, lines 1-32 and col. 3, lines 28-67, col. 5, lines 3-5, and 35-60, col. 6, lines 12-54), which reads on receiving a portion of digital media and reads on a volatile memory, wherein the SPU may constitute as a conventional playback system. As well, Janky indicates the use of particular types of software that may used by the PC to control the transfer of the digital media data - (col. 2, lines 52-63, col. 5, lines 18-33, col. 6, lines 29-41, col. 8, lines 27-35). However, Janky fails to specifically disclose converting and receiving the portion of the digital media file, therein as claimed.

Regarding converting and receiving of the digital media file, in a similar field of endeavor, Sass discloses distribution and playing audio information. Sass' disclosure comprises

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a memory coupled to a CPU of a media player, where store data in the memory is processed to prevent interruptions of the audio output (col. 5, lines 49-64). And, Malladi discloses the use of firmware, which indicates control flow of the data from one storage area to another (col. 4, lines 13-24 and 44-51).

Thus, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Janky by providing a memory that buffers the audio data so that interruptions of the audio playback is prevented.

Regarding claim 62, Janky combination discloses everything claimed as applied above (see claim 61). Janky combination (Janky) further discloses data command entry modules on the PC and on the SPU, wherein the PC and the SPU are capable to provide audio playback. Thus, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Janky combination by providing a means of detecting and activation of a button on the client device for the purpose of monitoring and/or making use aware of the playback process being in use.

Regarding claim 63-64, Janky combination discloses everything claimed as applied above (see claim 61). Janky combination (Janky) further discloses LAN access to the PC and to the SPU via the PC, which indicates establishing a communicative network connection between the client converter device, the conventional media playback system and the server, thereto; data command entry modules on the PC and on the SPU, which indicates user navigation and selecting the file for playback, therein; and streaming accordingly as taught by Sass and Malladai.

Regarding claim 65, Janky combination discloses everything claimed as applied above (see claim 61). Janky combination (Janky) further discloses the transferred data including audio data, which is converted from digital to analog data for playback by the SPU or the PC, (col. 6, lines 44-51 and col. 5, lines 55-59), which indicates the claimed limitation, therein.

Regarding claim 66, Janky combination discloses everything claimed as applied above (see claim 61). Janky combination (Janky) further discloses the transferred data including audio data, which may be in a decompressed audio format useable by the SPU (col. 6, lines 22-28), which indicates the claimed limitation, therein.

3. **Claim 12** is rejected under 35 U.S.C. 103(a) as being unpatentable over Janky combination in view of Anderson, U. S. Patent No. 6427165.

Regarding claim 12, Janky combination discloses everything claimed as applied above (see claim 61). However, Janky fails to disclose the wireless transfer protocol as IEEE 802.11.b. IEEE standards are well known and commonly used in the art. Anderson discloses the use IEEE 802.11 standards for use wireless networks (col. 4, lines 1-10). It would have been obvious to one of the ordinary skill in the art the time the invention was made to modify the invention of Janky combination by implementing a specific IEEE 802.11.b transmission standard for sufficient wireless digital data transmission.

Response to Arguments

4. Applicant's arguments with respect to claims 2, 5-6, 11-14, 61-67 have been considered but are moot in view of the new ground(s) of rejection.

The applicant essentially argues that the prior combination with the Sass modification fails to disclose the claimed invention as amended. The arguments provided by the applicant of the claimed invention have specific in detail than the claim language. The claim language of the claimed invention has been interpreted and examined in respect to the broadest interpretation. Thus, the rejection with Sass modification is maintained with another reference that specifically discloses firmware for controlling audio for download or transfer from storage location to another. Further documentation of Sass has been provided that supports that audio output is not interrupted during transfer of the audio data.

Conclusion


Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura A. Grier whose telephone number is (571) 272-7518. The examiner can normally be reached on Monday - Friday, 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chin can be reached on (571) 272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Laura A Grier
Primary Examiner
Art Unit 2644

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